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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JONG S. HUANG,
IAN MARRIOTT, and
CURTIS N.VON VEH

Appeal 2009-012347
Application 09/772,382
Technology Center 3600

Before HUBERT C. LORIN, ANTON W. FETTING, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Jong S. Huang, et al. (Appellants) seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 1-7, 9, 11-15, and 18-32. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.[2]

THE INVENTION

The invention is "a system and method for facilitating high-density interactive voting (such as during a live event) using a computer network." Specification 1:17-20.

> 1. A method for facilitating interactive voting over the Internet during a corresponding live television broadcast event, comprising:
>
> presenting a survey question and a plurality of responses to voters viewing the live television broadcast event;
>
> directing the voters to case votes over the Internet at a web site of a sponsor of the live television broadcast event;
>
> transmitting each of the votes over the Internet to a server of the web site;
>
> receiving raw votes from the voters over the Internet at the web site server in response to the survey question;

[2] Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed Jan. 6, 2009) and Reply Brief ("Reply Br.," filed Jun. 10, 2009), and the Examiner's Answer ("Answer," mailed Apr. 10, 2009).

providing a Live Event Object residing on the server that maintains persistent connections between the Live Event Object and a database;

caching the raw votes received form the voters in a memory cache of the Live Event Object for a predefined time interval, the raw votes having never been written in a database;

tabulating as a batch in the memory cache the cached raw votes accumulated over the predefined time interval to generate intermediate voting results, wherein the votes are cached and tabulated in the Live Event Object prior to writing in the database;

writing the intermediate voting results and each raw vote accumulated over the predefined time interval to the database at the predefined interval only after each raw vote received has been cached and tabulated as a batch in the memory cache;

computing in real time a final voting result to the survey question by continuously tallying each of the intermediate voting results written in the database; and

presenting the final voting results to viewers on the live television broadcast even prior to its conclusion.

THE REJECITON

The Examiner relies upon the following as evidence of unpatentability:

Blumberg	US 6,240,415 B1	May 29, 2001
Bayer	US 6, 311, 190 B1	Oct. 30, 2001

Programmatic Environments for Oracle Objects, Oracle 8i Application Developer's Guide- Fundamentals,

http://www.csee.umbc.edu/help/oracle8/server.815/a68003/01_19obj.htm(last visited March 8, 2005). [Hereinafter, Oracle 8i I.]

Programmatic Environments, Oracle 8i Application Developer's Guide- Fundamentals, http://www.csee.umbc.edu/help/oracle8/server.815/a68003/01_01dev.htm(last visited March 10, 2005).. [Hereinafter, Oracle 8i II.]

The following rejection is before us for review:

1. Claims 1-7, 9, 11-15, and 18-32 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bayer, Oracle 8i I, Oracle 8i II, and Blumberg.

ISSUE

The issue is whether claims 1-7, 9, 11-15, and 18-32 are unpatentable under 35 U.S.C. § 103(a) over Bayer, Oracle 8i I, Oracle 8i II, and Blumberg. Specifically, the issue is whether the combination of the prior art teaches the steps of "caching the raw votes . . . in a memory cache . . ., the raw votes having never been written in a database and "writing the intermediate voting results and each raw vote . . . to the database . . . only after each raw vote received has been cached and tabulated as a batch in the memory cache."

ANALYSIS

The Appellants argue that none of Bayer, Oracle 8i I, Oracle 8i II, or Blumberg teaches the steps of "caching the raw votes . . . in a memory cache . . ., the raw votes having never been written in a database and "writing the

intermediate voting results and each raw vote . . . to the database . . . only after each raw vote received has been cached and tabulated as a batch in the memory cache." App. Br. 6-11 and Reply Br. 4-7. The Appellants argue that Oracle 8i I, which the Examiner relies upon to teach this limitation, discloses loading data into a cache which has already been written to a database. App. Br. 9-10.

First, we note that the Examiner did not address this limitation that requires that the raw votes never to have been written to a database in the rejection. *See* Answer 4-13. However, the Examiner did rely upon Oracle 8i I to teach a step of caching received votes and the claimed step of writing the intermediate voting results. Answer 6-8. In response to the Appellants' argument, the Examiner asserts: "To this the examiner would point out that the fact that Oracle teaches pulling a copy from a database to write to it does not teach away from the claimed invention, rather it supports the teaching of tabulating information in a cache prior to writing it to a database." Answer 28.

While Oracle 8i I may teach "pulling a copy from a database to write to it" (*Id.*; *see also* Oracle 8i I pg. 2), this does not teach the claimed step of "caching raw votes . . ., the raw votes having never been written in a database" and "writing the intermediate voting results and each raw vote . . . to the database . . . only after each raw vote received has been cached and tabulated as a batch in the memory cache." We note that the Examiner does not rely upon Bayer or Blumberg to cure these deficiencies. *See* Answer 4-13.

As the Appellants assert (*see* App. Br. 6-8), independent claims 14, 22, and 26 also recite similar limitations. Our reasoning above applies

equally to the rejection of these claims. The Examiner has not established a prima facie case of obviousness in rejecting claims 1-7, 9, 11-15, and 18-32. Accordingly, we find that the Appellants have overcome the rejection of claims 1-7, 9, 11-15, and 18-32 under 35 U.S.C. §103(a) as being unpatentable over Bayer, Oracle 8i I, Oracle 8i II, and Blumberg.

DECISION

The decision of the Examiner to reject claims 1-7, 9, 11-15, and 18-32 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REVERSED

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